

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

CARLOS C. McDANIELS,

Plaintiff,

v.

BRIAN POBANZ,

Defendant.

Case No. 17-CV-1056-JPS

ORDER

On March 2, 2018, Plaintiff filed his third motion to compel in this matter. (Docket #30). He claims to have sent a discovery request for video footage of Defendant conducting pat-down searches of inmates from June 2, 2017 through June 12, 2017. Plaintiff states that he was provided some footage from June 2 in response, but Defendant informed him that prison staff had not preserved any other footage. Defendant explained that footage is not normally preserved without a specific reason to do so, and there was none at the time.

In his opening brief, Plaintiff requests production of the pat-down footage from June 2 to June 12. Plaintiff claims that Defendant's discovery response is a lie; Defendant has either destroyed the missing footage or is hiding it from him. Defendant denies this. Plaintiff provides absolutely no evidence for his assertion other than his own belief. This is insufficient for the Court to conclude that Defendant has engaged in any bad-faith evidence destruction.

Plaintiff's reply presents a different request for relief. *See* (Docket #34). Instead of pat-down footage, Plaintiff asks for all security footage from "K-Unit" from June 1, 2017 to June 15, 2017. He again asserts that this

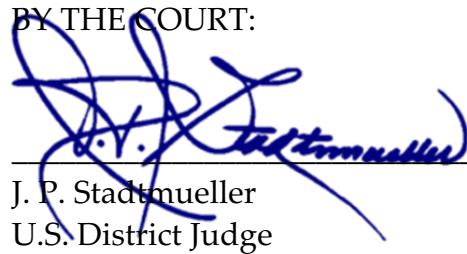
footage was wrongfully destroyed or withheld. Plaintiff cannot change the target of his motion to compel in a reply. That defeats the purpose of his opening brief and defendant's response brief, as well as the good-faith resolution process provided for in Civil Local Rule 37. Because Plaintiff is not entitled to the relief sought in his opening brief, his motion to compel must be denied.

Accordingly,

IT IS ORDERED that Plaintiff's third motion to compel (Docket #30) be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 6th day of April, 2018.

BY THE COURT:



J. P. Stadtmueller
U.S. District Judge